

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

KENNETH SOWELL

§

VS.

§

CIVIL ACTION NO. 1:24cv271

TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, ET AL.

§

MEMORANDUM ORDER PARTIALLY ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Kenneth Sowell, an inmate at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled lawsuit.

The Court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends the action be dismissed without prejudice.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed an advisory and objections to the magistrate judge's Report and Recommendation. The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

The magistrate judge recommended dismissal based on plaintiff's lawsuit being repetitious of another pending lawsuit, Civil Action No. 1:24cv172, styled *Sowell v. Doe* (E.D. Tex.). In his advisory and objections, plaintiff advises the Court that he should have only one civil action pending, and the correct civil action is No. 1:24cv262, styled *Sowell v. Texas Dep't of Crim. Just.* (E.D. Tex.). Plaintiff's assertion is liberally construed as a motion to dismiss the above-styled action. As a result,

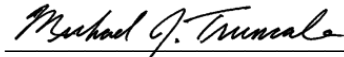


the above-styled action should be dismissed without prejudice under FED. R. CIV. P. 41(a) pursuant to the plaintiff's motion to dismiss. Therefore, the report should be adopted to the extent it recommended dismissal. The dismissal will be without prejudice.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is partially ADOPTED. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

**SIGNED** this 26th day of September, 2024.

A handwritten signature in cursive script, reading "Michael J. Truncala", is written over a horizontal line.

Michael J. Truncala  
United States District Judge